

UNITED STATES DISTRICT COURT  
NORTHERN DISTRICT OF CALIFORNIA  
BEFORE THE HONORABLE JOSEPH C. SPERO

HUAWEI TECHNOLOGIES CO., LTD., )  
HUAWEI DEVICE USA, INC., AND )  
HUAWEI TECHNOLOGIES USA, INC., )  
 )  
PLAINTIFFS / COUNTERCLAIMDEFENDANTS, )  
 )  
V. )  
 )  
SAMSUNG ELECTRONICS CO., LTD., )  
SAMSUNG ELECTRONICS AMERICA, INC., )  
 )  
DEFENDANTS / COUNTERCLAIMPLAINTIFFS, )  
 )  
AND ) NO. 16-CV-2787 WHO  
 )  
SAMSUNG RESEARCH AMERICA, ) SAN FRANCISCO  
 ) CALIFORNIA  
DEFENDANT, ) FRIDAY  
 ) OCTOBER 27, 2017  
V. )  
 )  
HISILICON TECHNOLOGIES CO., LTD., )  
COUNTERCLAIM-DEFENDANT. )  
 )

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**TRANSCRIPT OF PROCEEDINGS OF THE OFFICIAL ELECTRONIC SOUND**

**RECORDING 12:58 P.M. - 1:47 P.M.**

***TRANSCRIBED BY: JOAN MARIE COLUMBINI, CSR #5435, RPR  
RETIRED OFFICIAL COURT REPORTER, USDC***

**APPEARANCES :**

**FOR PLAINTIFF**

SIDLEY AUSTIN, LLP  
555 CALIFORNIA STREET, SUITE 2000  
SAN FRANCISCO, CALIFORNIA 94104

**BY: MICHAEL J. BETTINGER, ESQUIRE  
IRENE YANG, ESQUIRE**

SIDLEY AUSTIN, LLP  
ONE SOUTH DEARBORN  
CHICAGO, ILLINOIS 60603

**BY: DAVID T. PRITIKIN, ESQUIRE  
DAVID C. GIARDINA, ESQUIRE**

**FOR DEFENDANT**

QUINN, EMANUEL, URQUHART & SULLIVAN  
50 CALIFORNIA STREET, 22ND FLOOR  
SAN FRANCISCO, CALIFORNIA 49111

**BY: CHARLES K. VERHOEVEN, ESQUIRE  
CARL G. ANDERSON, ESQUIRE**

QUINN, EMANUEL, URQUHART & SULLIVAN  
555 TWIN DOLPHIN DRIVE, FIFTH FLOOR  
REDWOOD SHORES, CALIFORNIA 94065

**BY: VICTORIA MAROULIS, ESQUIRE**

1 FRIDAY, OCTOBER 27, 2017

12:58 P.M.

2 (TRANSCRIBER'S NOTE: DUE AT TIMES TO COUNSEL'S FAILURE TO  
3 IDENTIFY THEMSELVES WHEN SPEAKING, CERTAIN SPEAKER  
4 ATTRIBUTIONS ARE BASED ON EDUCATED GUESS.)

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6 PROCEEDINGS

7 **THE CLERK:** WE ARE CALLING CASE NO. C 16-2787, HUAWEI  
8 TECHNOLOGIES VERSUS SAMSUNG.

9 APPEARANCES, PLEASE.

10 **MR. PRITIKIN:** GOOD AFTERNOON, YOUR HONOR.

11 DAVID PRITIKIN.

12 **THE COURT:** YES.

13 **MR. PRITIKIN:** MICHAEL BETTINGER, DAVID GIARDINA, AND  
14 IRENE YANG ON BEHALF OF HUAWEI.

15 **THE COURT:** WELCOME.

16 **MR. VERHOEVEN:** GOOD AFTERNOON, YOUR HONOR.

17 CHARLES VERHOEVEN. WITH ME IS VICTORIA MAROULIS AND  
18 CARL ANDERSON ON BEHALF OF SAMSUNG.

19 **THE COURT:** WELCOME. ALL RIGHT. GOOD TO SEE YOU ALL  
20 AGAIN IN THIS CASE NOMINALLY ASSIGNED TO JUDGE ORRICK. IT'S A  
21 LITTLE BUSY FOR THE NEXT YEAR AND A HALF, SO HE ASKED ME TO  
22 HELP HIM WITH IT.

23 TO SET THE PARAMETERS FOR WHAT WE ARE GOING TO TALK  
24 ABOUT, YOUR SCHEDULE IS FINE WITH ME, WITH A COUPLE OF SLIGHT  
25 MODIFICATIONS, WHICH I DIDN'T WRITE DOWN. THE PRETRIAL AND THE

1 TRIAL DATES ARE GOING TO BE SLIGHTLY DIFFERENT, BUT IT WILL BE  
2 PROXIMATE TO THOSE DATES, BUT THE REST OF THOSE DATES WERE  
3 FINE.

4 KAREN, CAN YOU ASK --

5 **THE CLERK:** JUDGE ORRICK'S CLERK --

6 **THE COURT:** NO, I WANT YOU TO ASK SAM TO LOOK AT MY  
7 EMAILS AND PULL UP -- OR MAYBE I CAN PULL IT UP RIGHT HERE.  
8 THERE WE GO.

9 SO IN TERMS OF DISCUSSING THE OTHER THINGS, WE WERE  
10 TALKING ABOUT THOSE TIME FRAMES, WE'VE GOT A LITTLE MORE TIME  
11 TO DEAL WITH THINGS. AND MOST OF WHAT I WANTED TO TALK ABOUT  
12 TODAY IS THE PRODUCTS ISSUE, BUT BEFORE WE DO THAT, I WANTED TO  
13 TALK ABOUT RESOLUTION.

14 I REALLY WANT TO TALK ABOUT WHAT YOU THINK ABOUT WHAT  
15 PROCESS AND AT WHAT POINT IN TIME IS GOING TO BE THE  
16 APPROPRIATE POINT IN TIME. I DON'T KNOW -- I KNOW THERE'S -- I  
17 DON'T KNOW WHAT'S GOING ON AROUND THE WORLD, SO I DON'T KNOW  
18 WHAT THE APPROPRIATE TIME IS OR WHAT THE APPROPRIATE PROCESS  
19 IS, BUT I'D BE INTERESTED IN YOUR THOUGHTS ON THAT.

20 **MR. VERHOEVEN:** I'LL GIVE YOU A 50,000-FOOT PICTURE,  
21 YOUR HONOR.

22 **THE COURT:** THAT'S ALL I CAN TAKE.

23 **MR. VERHOEVEN:** SO BEFORE THE LAWSUITS BEGAN, THERE  
24 WAS SUBSTANTIAL NEGOTIATIONS BETWEEN THE PARTIES, SEVERAL  
25 ROUNDS. HUAWEI INSTIGATED LITIGATION WITHOUT NOTICE IN MAY OF

1 2016. HERE IN THE NORTHERN DISTRICT THEY ASSERTED THEIR  
2 COMPLAINT FOR INFRINGEMENT OF TEN PATENTS. THEY ALSO ASKED FOR  
3 A DECLARATORY RELIEF THAT SAMSUNG WAS -- THAT THE COURT DECREED  
4 THAT SAMSUNG WAS NOT ALLOWED TO GET INJUNCTIONS WORLDWIDE  
5 BECAUSE OF FRAND ACTIVITIES.

6 **THE COURT:** RIGHT.

7 **MR. VERHOEVEN:** AND THEY ALSO ASKED THE COURT TO  
8 ENGAGE IN RATE SETTING WORLDWIDE.

9 **THE COURT:** RIGHT.

10 **MR. VERHOEVEN:** THEY ALSO DID NOT TELL THE COURT  
11 ABOUT THEIR ACTIONS IN CHINA.

12 **THE COURT:** SO LET'S STEP BACK A BIT. NO SNIPING AT  
13 EACH OTHER. I'M NOT INTERESTED --

14 **MR. VERHOEVEN:** OKAY.

15 **THE COURT:** -- BECAUSE I'M NOT GOING TO COME OUT OF  
16 THIS THINKING ONE SIDE IS BAD AND ONE SIDE IS GOOD. SO WHEN  
17 YOU SAY THEY DIDN'T DO THIS OR THEY DIDN'T GIVE NOTICE, I  
18 JUST --

19 **MR. VERHOEVEN:** OKAY.

20 **THE COURT:** -- IT REFLECTS BADLY ON YOU, NOT ON THEM.

21 **MR. VERHOEVEN:** OKAY. THANK YOU, YOUR HONOR.

22 **THE COURT:** YEAH.

23 **MR. VERHOEVEN:** AROUND THE SAME TIME THEY FILED EIGHT  
24 SEPARATE ACTIONS IN CHINA.

25 **THE COURT:** OKAY.

1                   **MR. VERHOEVEN:** AND THE SOLE RELIEF THAT THEY SOUGHT  
2 IN THOSE EIGHT ACTIONS WAS INJUNCTIVE RELIEF.

3                   **THE COURT:** OKAY.

4                   **MR. VERHOEVEN:** THE ASSERTIONS WERE ON STANDARD  
5 ESSENTIAL PATENTS. AND I DON'T WANT TO BE ACRIMONIOUS ABOUT  
6 IT, BUT OUR VIEW IS THAT'S INCONSISTENT WITH WHAT THEY'RE DOING  
7 IN THE UNITED STATES.

8                   **THE COURT:** OKAY.

9                   **MR. VERHOEVEN:** SO THAT'S BASICALLY THE SET UP, YOUR  
10 HONOR.

11                  **THE COURT:** I SEE.

12                  **MR. VERHOEVEN:** THE EIGHT ACTIONS ARE STILL IN  
13 PROCESS.

14                  **THE COURT:** OKAY.

15                  **MR. VERHOEVEN:** OUR ACTION IS STILL IN PROCESS.

16                  **THE COURT:** YEAH.

17                  **MR. VERHOEVEN:** EARLIER IN THE CASE THERE WAS A FIGHT  
18 HERE --

19                  **THE COURT:** RIGHT.

20                  **MR. VERHOEVEN:** -- OR DISAGREEMENT ABOUT WHETHER THE  
21 COURT SHOULD BIFURCATE OUT THE PATENT PORTION FROM THE  
22 FRAND-RELATED ISSUES, AND THE PLAINTIFF HAD ASKED TO DO THAT,  
23 AND JUDGE ORRICK HAD DENIED THAT REQUEST. AND I THINK IT'S  
24 BEEN BROUGHT UP THREE TIMES NOW AND DENIED THREE TIMES. SO  
25 WE'RE HEADED FOR ONE TRIAL.

1                   **THE COURT:** RIGHT.

2                   **MR. VERHOEVEN:** TWO WEEKS ON EVERYTHING.

3                   **THE COURT:** RIGHT.

4                   **MR. VERHOEVEN:** AND WE'VE HAD CLAIM CONSTRUCTION.

5                   **THE COURT:** RIGHT.

6                   **MR. VERHOEVEN:** WE'RE IN THE MIDDLE OF DISCOVERY  
7 DOING DEPOSITIONS AND VERY BUSY.

8                   AND THEN, YOUR HONOR HAS THE SCHEDULE. SO THAT'S THE  
9 BIG PICTURE, AS FAR AS I SEE IT.

10                  **THE COURT:** OKAY. SO WHAT KIND OF SCHEDULE ARE THE  
11 CHINESE ACTIONS ON?

12                  **MR. VERHOEVEN:** THEY'VE -- YOU KNOW, THEIR SYSTEM IS  
13 COMPLETELY DIFFERENT.

14                  **THE COURT:** NOT SURPRISING. RIGHT.

15                  **MR. VERHOEVEN:** I'M NOT SURE I CAN EVEN SAY THEY HAVE  
16 A SCHEDULE.

17                  **THE COURT:** OKAY.

18                  **MR. VERHOEVEN:** BUT I CAN TELL YOU THAT THERE'S ONE  
19 CASE THAT'S FARTHER ALONG THAN THE OTHERS, AND THAT ONE HAS HAD  
20 TWO ROUNDS OF BENCH TRIALS, I GUESS IS WHAT YOU CALL IT. YOU  
21 KNOW, THEY HAVE AN INQUISITORIAL SYSTEM, NOT AN ADVERSARIAL  
22 SYSTEM.

23                  **THE COURT:** RIGHT.

24                  **MR. VERHOEVEN:** SO --

25                  **THE COURT:** RIGHT.

1                   **MR. VERHOEVEN:** WE HAVE NOT BEEN PERMITTED, AS U.S.  
2 PEOPLE, TO EVEN PARTICIPATE IN --

3                   **THE COURT:** RIGHT.

4                   **MR. VERHOEVEN:** SO WE'RE BANNED.

5                   **THE COURT:** RIGHT.

6                   **MR. VERHOEVEN:** SO WE'VE ONLY HEARD INDIRECT REPORTS,  
7 BUT I DO NOT BELIEVE THERE'S BEEN A RULING ON THAT FIRST CASE.

8                   **THE COURT:** OKAY.

9                   **MR. VERHOEVEN:** MS. MAROULIS WOULD KNOW MORE IF YOU  
10 ASK MORE DETAILED QUESTIONS BECAUSE --

11                   **THE COURT:** I'M JUST KIND OF -- HOW LONG DO THOSE  
12 KINDS OF PROCEEDINGS TYPICALLY TAKE?

13                   **MS. MAROULIS:** YOUR HONOR, THERE IS NO SOLID SCHEDULE  
14 THAT WE WOULD DO HERE, SO IT'S A LITTLE BIT HARD TO PREDICT.

15                   **THE COURT:** OKAY.

16                   **MS. MAROULIS:** THERE WAS, AS MR. VERHOEVEN SAID,  
17 EVIDENCE TAKEN, BUT WE DON'T KNOW WHEN THE DECISION WILL COME  
18 DOWN.

19                   **THE COURT:** RIGHT.

20                   **MS. MAROULIS:** AND THAT IS ONLY ONE OF MANY OTHER  
21 STAGES. THERE'S SOME SUBSEQUENT STAGES SIMILAR TO APPEALS, BUT  
22 I'M NOT SURE THAT'S THE RIGHT WORD. THIS IS ONLY ONE OF THE, I  
23 BELIEVE, THREE ACTIONS BETWEEN PARTIES IN CHINA. AND SO  
24 THERE'S QUITE A BIT OF PROCEEDINGS LEFT.

25                   **THE COURT:** OKAY.

1                   **MS. MAROULIS:** AND WE LEARN ABOUT THEM AS THEY --

2                   **THE COURT:** YEAH.

3                   **MS. MAROULIS:** -- APPEAR, BUT WE DON'T HAVE THE  
4 EQUIVALENT OF A DOCKET ORDER, SCHEDULING ORDER, TO SHOW YOUR  
5 HONOR OR JUDGE ORRICK ABOUT WHAT'S GOING ON THERE.

6                   **THE COURT:** SURE, SURE, SURE.

7                   **MR. PRITIKIN:** THANK YOU, YOUR HONOR.

8                   FROM OUR STANDPOINT, THE BIG PICTURE HERE IS  
9 ULTIMATELY A CROSS LICENSE. I MEAN, THAT'S WHERE WE OUGHT TO  
10 BE GOING.

11                  BOTH SIDES HAVE LARGE PORTFOLIOS OF ESSENTIAL  
12 PATENTS, PATENTS THEY DECLARED. BOTH SIDES HAVE SAID THEY'RE  
13 WILLING TO LICENSE THEM TO THE OTHER, AND BOTH SAID THEY ARE  
14 WILLING TO TAKE LICENSES ON TERMS THAT ARE FAIR, REASONABLE,  
15 AND NONDISCRIMINATORY.

16                  **THE COURT:** OKAY. JUST VALUE THEIR PORTFOLIOS  
17 DIFFERENTLY?

18                  **MR. PRITIKIN:** THE PARTIES, CLEARLY. I MEAN, THAT'S  
19 WHAT'S HAPPENED IN THE NEGOTIATIONS, AND THAT'S WHY IT HASN'T  
20 HAPPENED TO DATE.

21                  **THE COURT:** RIGHT.

22                  **MR. PRITIKIN:** THAT'S WHY IT WAS UNPRODUCTIVE TO  
23 DATE.

24                  WE HAVE SAID FROM THE VERY BEGINNING WE ARE WILLING  
25 TO LET A NEUTRAL THIRD PARTY, BE IT A COURT OR AN ARBITRATOR,

1 DETERMINE WHAT THE FRAND RATES ARE BOTH WAYS AND TO LIVE BY IT.

2 **THE COURT:** WE'RE NOT GOING TO NEGOTIATE THAT HERE?

3 **MR. PRITIKIN:** NO.

4 **THE COURT:** MY QUESTION TO YOU IS TIMING, ABOUT WHEN  
5 THE BALANCE OF POWER WILL HAVE SHIFTED ENOUGH OR THE  
6 INFORMATION FLOW WILL HAVE GOTTEN TO A POINT WHEN YOU CAN  
7 SIT -- PEOPLE WILL BE IN A POSITION TO DO SOMETHING DIFFERENT  
8 THAN THEY'VE BEEN WILLING TO DO UP TO THIS POINT.

9 **MR. PRITIKIN:** AND I THINK THAT IN TERMS OF WHEN  
10 THOSE THINGS ARE GOING TO HAPPEN -- OBVIOUSLY, WE'RE WILLING TO  
11 MEDIATE AT ANY TIME, BUT THE QUESTION YOU'RE ASKING IS --

12 (SIMULTANEOUS COLLOQUY.)

13 **THE COURT:** -- USEFUL.

14 **MR. PRITIKIN:** WHAT'S GOING TO BE A USEFUL,  
15 PRODUCTIVE TIME TO DO IT.

16 **THE COURT:** YEAH.

17 **MR. PRITIKIN:** MY UNDERSTANDING IS THE FIRST OF THE  
18 DECISIONS IN THE CHINESE ACTIONS ARE LIKELY TO COME DOWN FAIRLY  
19 SOON. BUT THEY'RE CORRECT, WE DON'T HAVE A PRECISE TIMETABLE.  
20 IS IT GOING TO BE NEXT MONTH? IS IT GOING TO BE THREE MONTHS?  
21 WE DON'T KNOW FOR SURE.

22 **THE COURT:** OKAY.

23 **MR. PRITIKIN:** I THINK IT'S GOING TO BE RELATIVELY  
24 SOON THAT THE FIRST OF THE DECISIONS WILL BE ISSUED THERE. AS  
25 FAR AS THIS LITIGATION IS CONCERNED, YOU KNOW, WE'RE GOING TO

1 CONTINUE. WE HAVE THE MARKMAN RULINGS. WE'RE GOING TO BE  
2 CONTINUING THROUGH FACT DISCOVERY NOW FOR SOME PERIOD OF TIME.

3 **THE COURT:** RIGHT. DISPOSITIVE MOTIONS IN AUGUST.

4 **MR. PRITIKIN:** THAT'S RIGHT.

5 **THE COURT:** NEXT YEAR.

6 **MR. PRITIKIN:** BUT I'M NOT SURE --

7 **THE COURT:** YEAH.

8 **MR. PRITIKIN:** -- THAT THE ADDITIONAL DISCOVERY --

9 **THE COURT:** RIGHT.

10 **MR. PRITIKIN:** -- IS REALLY GOING TO TIP THINGS IN  
11 TERMS OF THE QUESTION YOU'RE POSING --

12 **THE COURT:** RIGHT.

13 **MR. PRITIKIN:** -- ONE WAY OR ANOTHER.

14 **THE COURT:** RIGHT, RIGHT.

15 **MR. VERHOEVEN:** THE ONLY THING I'D AUGMENT ON THAT,  
16 YOUR HONOR, I DON'T DISAGREE WE DON'T KNOW WHEN WE'RE GOING TO  
17 GET A RULING, BUT IT COULD BE -- I THINK THE TRIALS ARE DONE IN  
18 THIS ONE MATTER. SO WE MIGHT GET A RULING SOONER. WE MIGHT  
19 GET IT LATER. WE JUST DON'T KNOW.

20 BUT I WOULD ADD TO THAT THAT MY UNDERSTANDING OF THE  
21 PROCEDURE, WHICH IS VERY LIMITED, IS THAT THERE'S STEPS THAT  
22 THE ARE --

23 **THE COURT:** SUBSEQUENT.

24 **MR. VERHOEVEN:** -- SUBSEQUENT, AND IT'S NOT LIKE THE  
25 U.S. COURT SYSTEM IN TERMS OF DEFERENCE --

2                   **MR. VERHOEVEN:** AND, YOU KNOW, WE HAVE ALSO -- WE  
3 WERE NEGOTIATING BEFORE WE WERE SUED, AND WE CONTINUE TO  
4 NEGOTIATE. WE OBJECT TO HAVING TO NEGOTIATE UNDER THREAT OF  
5 INJUNCTIVE RELIEF. WE DON'T THINK THAT'S RIGHT. BUT WE STILL  
6 ATTENDED MEDIATIONS. WE ATTENDED ONE IN -- THE LAST ONE WAS IN  
7 CHINA. AND WE'RE STILL TRYING TO, WITHOUT BEING INFLUENCED BY  
8 THE THREAT OF INJUNCTIVE RELIEF --

9 || **THE COURT: RIGHT.**

12                   **THE COURT:** OKAY. SO YOU SEEM TO DIFFER ABOUT THE  
13 FORUM, WHEN IT BECOMES USEFUL, YOU MIGHT USE. I'M NOT SURE  
14 WHAT THAT'S ABOUT.

15                   **MR. VERHOEVEN:** WELL, YOUR HONOR, I THINK FROM OUR  
16 PERSPECTIVE --

18                   **MR. VERHOEVEN:** -- THESE ARE INCREDIBLY COMPLEX  
19                   WORLDWIDE COMPANIES WITH MANY DIFFERENT BUSINESSES THAT ARE  
20                   CORPORATE CITIZENS OF THE WORLD.

21 || THE COURT: I 'VE MET THEM.

22                           **MR. VERHOEVEN:** AND I KNOW -- I'M SORRY FOR THAT,  
23 YOUR HONOR.

1                   **MR. VERHOEVEN:** BUT -- SO THE NEGOTIATION OF THESE  
2 AGREEMENTS IS INCREDIBLY COMPLEX.

3                   **THE COURT:** YEP.

4                   **MR. VERHOEVEN:** IT VARIES NATION TO NATION OR  
5 ECONOMIC REGION TO ECONOMIC REGION. IT'S NOT JUST LIMITED TO  
6 THE U.S., AND IT INVOLVES -- AS YOUR HONOR KNOWS, THESE ARE --  
7 THESE HAVE TIME PERIODS. SO, YOU KNOW, I THINK PAST AGREEMENTS  
8 I'VE SEEN HAVE HAD TEN-YEAR TIME PERIODS. I DON'T KNOW WHAT  
9 THE PART -- I'VE FORGOTTEN EXACTLY WHAT THE PARTIES HAVE IN  
10 MIND HERE. BUT THAT NECESSARILY INVOLVES EACH SIDE PLACING A  
11 BET OF WHAT'S GOING TO HAPPEN IN THE FUTURE.

12                   A LOT OF TIMES THEY REGRET WHAT THEY DECIDE TO DO  
13 BECAUSE OF THE EVOLUTION OF TECHNOLOGY OR THE EVOLUTION OF THE  
14 MARKETPLACE, AND SO WE BELIEVE FOR THOSE REASONS AND MANY  
15 OTHERS THAT THE MOST EFFECTIVE WAY TO GET A RESOLUTION IS PARTY  
16 TO PARTY. AND, YOU KNOW, THE IDEA OF HAVING SOME POOR JUDGE  
17 TRY TO WORK THROUGH ALL THE INTERNATIONAL ISSUES AND THE  
18 DIFFERENT LEGAL ISSUES, I JUST -- IT HASN'T BEEN PRODUCTIVE SO  
19 FAR.

20                   AND SO MY PERSONAL OPINION, I JUST THINK THAT IF WE  
21 CAN GET THE PEOPLE TOGETHER AND GET THEM TO TALK -- MAYBE  
22 THAT'S VIA A MEDIATOR OR A THIRD PARTY, BUT THESE ARE REALLY  
23 BUSINESS JUDGMENT CALLS AND INTERNAL VALUATION CALLS, AND THE  
24 IDEA THAT AN INDIVIDUAL FROM SOME INDIVIDUAL COURT WILL BE ABLE  
25 TO FAIRLY AND ACCURATELY GO THROUGH ALL THESE DIFFERENT

1 JURISDICTIONS AND FIGURE OUT WHAT'S FAIR OR UNFAIR IS -- WELL,  
2 FIRST OF ALL, THERE'S ALL KIND OF JURISDICTIONAL ISSUES.

3 **THE COURT:** WELL, THAT WOULDN'T BE THE ROLE --

4 **MR. VERHOEVEN:** YEAH.

5 **THE COURT:** I KNOW ENOUGH TO KNOW THAT THAT'S NOT THE  
6 ROLE. THE ROLE IS TO BREAK DOWN COMMUNICATION BARRIERS.

7 **MR. VERHOEVEN:** RIGHT.

8 **THE COURT:** THAT'S THE ONLY ROLE OF A JUDGE OR ANYONE  
9 ELSE. THESE ARE, YOU KNOW, ESSENTIALLY COUNTRIES NEGOTIATING.  
10 THERE ARE CERTAINLY ENTITIES THAT THINK OF THEMSELVES LIKE  
11 COUNTRIES. AND THEY'RE GOING TO DO WHAT IS, IN THEIR VIEW, IN  
12 THEIR BEST INTERESTS.

13 BUT SOMETIMES, LIKE IN COUNTRIES, THERE ARE  
14 COMMUNICATION BARRIERS THAT A MEDIATOR OR SOMEONE WHO IS  
15 SKILLED IN HANDLING PEOPLE CAN HELP WITH, AND I DON'T KNOW WHAT  
16 THE BARRIERS ARE. I DON'T KNOW WHETHER THAT'S A USEFUL THING  
17 OR NOT A USEFUL THINGS. SOMETIMES IT IS, AND SOMETIMES IT  
18 ISN'T. THAT'S WHY I ASKED, AND I APPRECIATE YOUR ANSWER.

19 WHAT'S YOUR VIEW ON THAT?

20 **MR. PRITIKIN:** YOU'RE ASKING ABOUT MEDIATION?

21 **THE COURT:** YEAH.

22 **MR. PRITIKIN:** BECAUSE MR. VERHOEVEN WAS TALKING  
23 ABOUT THE JUDICIAL PROCEEDINGS.

24 **THE COURT:** NO, NO. HE'S TALKING ABOUT -- WHAT HE  
25 SAID WAS THAT HE DIDN'T VIEW MUCH VALUE IN ADDING A MEDIATOR OR

1 A SETTLEMENT JUDGE, THAT'S THIS IS GOING TO BE -- OTHER THAN  
2 PROVIDING SORT OF A FORUM FOR THE PARTIES TO MEET.

3 **MR. PRITIKIN:** I THINK WE PROBABLY HAVE A DIFFERENT  
4 VIEW ON THAT IN THE SENSE THAT MAYBE I'M AN OPTIMIST ABOUT  
5 THESE THINGS HAVING BEEN THROUGH CASES THAT WERE DIFFICULT TO  
6 SETTLE WHERE I THOUGHT SKILLED MEDIATORS BROUGHT A LOT OF  
7 VALUE. I'VE BEEN PRESENTLY SURPRISED MANY TIMES IN THE  
8 COURSE --

9 **MR. VERHOEVEN:** HE'S GOTTEN CYNICAL OVER THE LAST  
10 FIVE YEARS. THAT'S WHAT HAPPENS WHEN YOU --

11 **MR. PRITIKIN:** WE CERTAINLY DON'T ATTACH ANY  
12 PRECONDITIONS TO IT, YOUR HONOR. WE'D BE PLEASED TO HAVE YOU  
13 ACT AS THE SETTLEMENT JUDGE. WE WOULD BE PLEASED TO HAVE  
14 SOMEONE ELSE DO IT. WE'RE REALLY QUITE OPEN.

15 **THE COURT:** YEAH.

16 **MR. PRITIKIN:** WE THINK THERE IS BENEFIT IN HAVING  
17 THE PARTIES MOVE FORWARD WITH SOME TYPE OF MEDIATION.

18 **THE COURT:** WELL, LET'S KEEP TALKING ABOUT IT. I  
19 DON'T THINK NOW IS THE TIME ANYWAYS, AND WE'RE GOING TO MEET  
20 AGAIN, SO LET'S KEEP TALKING ABOUT IT.

21 PRODUCTS --

22 **MR. VERHOEVEN:** MS. MAROULIS IS GOING TO HANDLE THAT  
23 ARGUMENT, YOUR HONOR.

24 **MR. PRITIKIN:** AND MR. BETTINGER IS GOING TO HANDLE  
25 IT FOR OUR SIDE, YOUR HONOR.

1                   **MS. MAROULIS:** THEY HAND OFF THE HARD STUFF TO ME.

2                   **THE COURT:** I WAS GOING TO SAY THAT, BUT I'M GLAD YOU  
3 DID INSTEAD.

4                   SO HERE'S MY QUESTION.

5                   **MR. BETTINGER:** YEAH.

6                   **THE COURT:** WHERE'S THE MOST MONEY AT STAKE?

7                   **MR. BETTINGER:** HONEST ANSWER IS WE DON'T KNOW YET  
8 BECAUSE WE'RE EARLY IN DISCOVERY.

9                   **THE COURT:** OKAY. BUT --

10                  **MR. BETTINGER:** WE STILL NEED TO LOOK AT SOURCE CODE.  
11 BUT --

12                  **THE COURT:** BUT, NO, I'M NOT TALKING ABOUT  
13 INFRINGEMENT. I'M TALKING ABOUT WHERE ARE THE GREATEST NUMBER  
14 OF UNITS, RIGHT?

15                  **MR. BETTINGER:** RIGHT.

16                  **THE COURT:** SO ONE OF THE ISSUES THEY BRING UP IS  
17 AT&T VERSUS, YOU KNOW, WHATEVER, VERIZON, ET CETERA, ET CETERA.

18                  **MR. BETTINGER:** YEAH.

19                  **THE COURT:** DOES SOME CARRIER OR ANOTHER DOMINATE THE  
20 SALES?

21                  **MR. BETTINGER:** I THINK IF YOU JUST LOOKED AT IT,  
22 VERIZON IS PROBABLY THE LARGEST OF THE CARRIERS IN THE U.S.,  
23 FOLLOWED BY AT&T, AND THEN IT DROPS OFF WITH SPRINT AND  
24 T-MOBILE.

25                  FROM OUR VANTAGE POINT, WHETHER YOU'RE TALKING ABOUT

1 A VERIZON PHONE OR AN AT&T PHONE, THEY'RE STILL USING THE SAME.

2 (SIMULTANEOUS COLLOQUY.)

3 **THE COURT:** WE'LL TALK ABOUT THAT. BUT I'M TALKING  
4 ABOUT -- THERE ARE A LOT OF THINGS THAT GO INTO FIGURING OUT --

5 **MS. MAROULIS:** YEAH.

6 **MR. BETTINGER:** YEAH.

7 **THE COURT:** -- HOW YOU WANT TO DO THE NARROWING.

8 **MR. BETTINGER:** RIGHT.

9 **THE COURT:** AND IT OCCURS TO ME THAT ONE OF THE  
10 FACTORS THAT ONE MIGHT WANT TO THINK ABOUT IS MONEY. WHERE --  
11 IF WE'RE GOING TO BITE OFF AS MUCH AS WE CAN WITHOUT DRIVING  
12 JUDGE ORRICK ANY CRAZIER THAN HE'S GOING TO BE ABOUT A PATENT  
13 CASE THAT HE DOESN'T WANT TO TRY, WHAT DO WE BITE OFF?

14 SO IF TWO OF THE CARRIERS HAVE 80 PERCENT OF THE  
15 PHONES THAT WE'RE TALKING ABOUT OR THE DEVICES THAT WE'RE  
16 TALKING ABOUT, DEVICES, YOU KNOW, THAT NARROWS THE PROBLEM  
17 SOMEWHAT.

18 **MS. MAROULIS:** YOUR HONOR, WE DID PRODUCE THE SALES  
19 DATA TO HUAWEI AS PART OF THIS BACK-AND-FORTH --

20 **THE COURT:** YEAH.

21 **MS. MAROULIS:** -- ON NARROWING, BECAUSE ONE OF THE  
22 THINGS THEY ASKED FOR IS TO SEE THE SALES DATA, AND WE SUSPECT  
23 BECAUSE OF THE VERY THING YOUR HONOR IS RAISING, WHICH IS WHAT  
24 SELLS WHAT. SO WE PRODUCED THE DATA BROKEN OUT BY THE MODEL  
25 NUMBERS, BY CARRIERS, BY ALL THE INFORMATION THEY NEED. SO

1 THAT PIECE IS THERE.

2 AND TO STEP BACK WHY WE'RE HAVING THIS NARROWING,  
3 IT'S REALLY TWOFOLD. ONE, WE WANTED TO HAVE THE NARROWING  
4 EARLY IN THE CASE SO WE CAN PREVENT KIND OF A FREE-FOR-ALL VERY  
5 LONG DISCOVERY AND BURDEN THE PARTIES. BUT EVEN MORE  
6 IMPORTANTLY, YOU HAVE THE NARROWING SO WE CAN PRESENT A  
7 COHERENT CASE TO THE COURT ON SUMMARY JUDGMENT, TO THE JURY  
8 DURING TRIAL. SO THAT IS THE GOAL BEHIND THIS PROCESS, AND  
9 THAT IS WHY WE PUSHED FOR IT EARLY ON.

10 **THE COURT:** NO, NO, IT'S A GOOD IDEA.

11 **MS. MAROULIS:** AND THAT'S WHY WE'RE STILL HERE.

12 AND THAT IS WHY WE WERE FORTHCOMING AFTER WE SPOKE  
13 WITH JUDGE ORRICK. MR. BETTINGER AND I APPEARED BEFORE HIM.  
14 WE LAID OUT OUR RESPECTIVE ARGUMENTS. AND HE SAID, WELL, YOU  
15 SHOULD GO AND TALK TO EACH OTHER SOME MORE AND PICK A PRODUCT  
16 FAMILY SO YOU CAN EXCHANGE THE INFORMATION AND YOU CAN SHOW  
17 EACH OTHER EXAMPLES AND WHAT YOU'RE TALKING ABOUT.

18 SO THAT'S EXACTLY WHAT WE DID. WE WENT BACK. WE  
19 GAVE THEM MORE TECHNICAL INFORMATION. WE PRODUCED THE SALES  
20 DATA.

21 **THE COURT:** YOU STILL DISAGREE.

22 **MS. MAROULIS:** WE STILL DISAGREE. SO IT IS -- YOU  
23 KNOW, IT NEEDS TO BE HANDLED SOON BECAUSE ONE OF THE THINGS --

24 **THE COURT:** NO, NO. I'M GOING TO HANDLE IT. THAT'S  
25 WHY WE'RE TALKING ABOUT IT. BUT LET ME JUST -- WHERE DOES THE

1 SALES DATA SHOW THE PHONES ARE BY CARRIER? NOT PHONES -- THE  
2 DEVICES ARE BY CARRIER (INDISCERNIBLE)?

3 **MS. MAROULIS:** YOUR HONOR, IT'S DIFFERENT FOR  
4 DIFFERENT MODELS. I DON'T HAVE THE SALES DATA RIGHT IN FRONT  
5 OF ME, BUT THE DETERMINATION REALLY SHOULDN'T BE BASED ON WHICH  
6 CARRIER MAKES MORE MONEY. IT SHOULD BE BASED ON OTHER THAN THE  
7 SAME PROOFS AT TRIAL OR DIFFERENT PROOFS.

8 **THE COURT:** NO, NO. THAT MAKES NO SENSE. IF YOU  
9 COULD NARROW IT -- YOU ARE GOING TO NARROW IT TO A PARTICULAR  
10 PRODUCT, A NUMBER OF PRODUCTS, THAT, THOSE PRODUCTS -- YOU KNOW  
11 THERE HAVE TO BE TEN PRODUCTS AT THE END OF THIS.

12 THE PROOF WITH RESPECT TO ANY OF ONE OF THOSE,  
13 HOWEVER YOU DEFINE "PRODUCT," HAS TO BE ABOUT THE SAME. OKAY.  
14 I APPRECIATE THAT. HOW YOU GET TO THOSE TEN YOU CAN DO THAT IN  
15 ANY WAY YOU WANT. AND ONE OF THE WAYS I THOUGHT OF IS THAT YOU  
16 FIGURE OUT WHERE THE SALES ARE. AND SO I DON'T KNOW. DO YOU  
17 KNOW WHERE THE SALES ARE?

18 **MR. BETTINGER:** NOT BY CARRIER, YOUR HONOR. AS I  
19 UNDERSTAND IT, WE DON'T YET KNOW BY CARRIER. WHAT WE DO KNOW  
20 IS AT&T AND VERIZON USE DIFFERENT CHIPS. SO THEY'RE GOING TO  
21 BE DIFFERENT REGARDLESS.

22 **THE COURT:** NO, NO. I UNDERSTAND THAT. BUT IF THE  
23 TOTAL NUMBER OF DIFFERENT CHIPS BETWEEN AT&T AND VERIZON IS  
24 FOUR, OR SOMETHING LIKE THAT, OR IS SIX, DEPENDING ON WHETHER  
25 YOU DECIDE IT MATTERS THAT THEY'RE DIFFERENT QUALCOMM CHIPS --

1 AND, I DON'T KNOW, YOU'LL FIGURE THAT OUT AT SOME POINT WHETHER  
2 THAT MATTERS -- YOU KNOW, YOU MAY BE ABLE TO NARROW IT TO THAT  
3 GROUP, AND THEN IT'S JUST THAT NUMBER OF PRODUCTS, AND YOU'VE  
4 ALREADY NARROWED IT DOWN. I DON'T KNOW. WHY ISN'T THAT --

5 **MS. MAROULIS:** YOUR HONOR, I JUST CONFIRMED WITH  
6 MY --

7 **THE COURT:** YEAH.

8 **MS. MAROULIS:** -- MY COLLEAGUE, MR. ANDERSON, THAT WE  
9 PRODUCE DATA BY CARRIER. SO THAT FINANCIAL DATA IS IN HUAWEI'S  
10 POSSESSION.

11 **THE COURT:** OKAY. BUT TO MAKE SURE I WAS CLEAR,  
12 BECAUSE MAYBE I WASN'T CLEAR ENOUGH ABOUT THIS, WITHIN EACH  
13 CARRIER SOME USE DIFFERENT CHIPS FROM ANOTHER'S, BUT EVEN  
14 THOUGH SOME MAY USE A PARTICULAR THIRD-PARTY CHIP, EACH  
15 DIFFERENT MODEL NUMBER HAS A DIFFERENT BUILD I.D., MEANING  
16 THERE'S DIFFERENT SOURCE CODE THAT ACCOMPANIES THAT CHIP.

17 **THE COURT:** WHICH MAY OR MAY NOT BE MEANINGFUL --

18 **MR. BETTINGER:** RIGHT.

19 **THE COURT:** -- IN TERMS OF THE INFRINGEMENT, RIGHT?

20 **MS. MAROULIS:** IT IS. BUT JUDGE ORRICK DID ASK US TO  
21 TALK ABOUT WHETHER THE PROOF IS GOING TO BE THE SAME OR NOT,  
22 AND THE PROOF IS GOING TO BE DIFFERENT BECAUSE THE SOURCE CODE  
23 IS GOING TO BE DIFFERENT.

24 **THE COURT:** NO, NO. UNLESS, ACTUALLY, THE RELEVANT  
25 SOURCE CODE THAT DOES WHAT IS CLAIMED TO BE INFRINGING IS

1 IDENTICAL, EVEN WITHIN THE FACT THAT THE OVERALL SOURCE CODE  
2 FOR THE QUALCOMM NUMBER 75 IS DIFFERENT FROM THE QUALCOMM 76.

3 **MS. MAROULIS:** YOUR HONOR, WE JUST GOT THE SOURCE  
4 CODE FROM THE THIRD PARTIES.

5 **THE COURT:** I KNOW WE DON'T KNOW YET.

6 **MS. MAROULIS:** SO WE DON'T KNOW A HUNDRED PERCENT IN  
7 WHICH WAY THEY'RE DIFFERENT, BUT WE DO KNOW THEY'RE DIFFERENT  
8 BECAUSE A BUILD I.D. IS BASICALLY LIKE A FILE NAME. IT'S AN  
9 IDENTITY OF THAT SOURCE CODE.

10 **THE COURT:** I DON'T CARE WHETHER THEY'RE DIFFERENT,  
11 THEY'RE NOT DIFFERENT IN MATERIAL WAYS, RIGHT? YES?

12 **MS. MAROULIS:** I MEAN, THAT'S CORRECT, YOUR HONOR.

13 **THE COURT:** THAT'S CORRECT; WE DON'T KNOW YET?

14 **MS. MAROULIS:** WE'RE LOOKING INTO THAT. AND WE DID  
15 OUTLINE SOME OTHER REASONS WHY THE PROOFS ARE GOING TO BE  
16 DIFFERENT. SO YOUR HONOR WAS ASKING ABOUT THE CARRIERS, AND  
17 CARRIER SALES DATA, SO WE ADDRESSED THAT --

18 **THE COURT:** NO, NO. THAT'S WHY I'M ASKING ABOUT  
19 CARRIERS AND CARRIER SALES DATA, BECAUSE WE'RE GOING TO GET  
20 DOWN TO WHETHER -- MORE INFORMATION ABOUT WHETHER OR NOT THAT  
21 MAKES ANY DIFFERENCE. I'M NOT -- I DON'T KNOW ENOUGH, AND I  
22 DON'T KNOW THAT YOU KNOW ENOUGH TO KNOW WHETHER OR NOT IN YOUR  
23 NON-INFRINGEMENT CASE IT ACTUALLY MAKES ANY MATERIAL DIFFERENCE  
24 THAT IT'S AT&T VERSUS VERIZON YET. IT WOULD BE SURPRISING IF  
25 YOU DID (INDISCERNIBLE) THIS EARLY.

1                   **MS. MAROULIS:** YOUR HONOR, THERE ARE SOME THINGS WE  
2 DO KNOW ALREADY, AND THAT IS THAT DIFFERENT CARRIERS CONFIGURE  
3 THE PRODUCTS DIFFERENTLY. WE KNOW -- AND WE CITED AT LEAST ONE  
4 EXAMPLE IN OUR PAPERS ABOUT THE FUNCTIONALITY THAT EXISTS IN  
5 VERIZON BUT NO OTHER CARRIERS.

6                   **THE COURT:** THAT EXISTS IN VERIZON BUT NOT IN  
7 CARRIERS BUT STILL IS AVAILABLE IN THE DEVICES?

8                   **MS. MAROULIS:** WE DON'T BELIEVE OTHER CARRIERS, THE  
9 PHONES ARE ACTUALLY PERFORMING THE FUNCTION.

10                  **THE COURT:** PERFORMING THE FUNCTION. HE'D PROBABLY  
11 STIPULATE TO THAT.

12                  **MR. BETTINGER:** ACTUALLY, WE WOULD NOT. YOU'RE  
13 RIGHT, ALL THE PHONES HAVE THE CAPABILITY. THE QUESTION IS --  
14 THEY ARGUE ON THIS ONE PATENT THAT VERIZON IS THE ONLY ONE WHO  
15 IMPLEMENTS.

16                  IT TURNS OUT IN THE DEPOSITIONS LAST WEEK IN HONG  
17 KONG, WE LEARNED THAT THAT'S NOT TRUE, THAT ACTUALLY IT'S NOT  
18 LIMITED TO THIS MVMS. IT'S ACTUALLY BROADER INFORMATION THAT  
19 CAN BE IN THIS SUBFRAME OTHER THAN MVMS. SO OUR BELIEF, THOUGH  
20 YOU'RE RIGHT, YOUR HONOR, WE HAVE NOT COMPLETED ENOUGH  
21 DISCOVERY TO KNOW FOR SURE --

22                  **THE COURT:** OKAY.

23                  **MR. BETTINGER:** BUT IT WOULD LOOK LIKE ALL THE PHONES  
24 WOULD HAVE THAT PARTICULAR CAPABILITY TO USE THIS MVMS FN  
25 SUBFRAME.

1                   **THE COURT:** BUT THE SIGNIFICANCE OF YOUR ARGUMENT  
2 ABOUT THE IMPLEMENTATION BEING DIFFERENT, LEAVING ASIDE HIS  
3 ARGUMENT ABOUT WHETHER IT'S TRUE, IF THE IMPLEMENTATION IS  
4 DIFFERENT, THAT'S A DAMAGES QUESTION, ISN'T IT, NOT AN  
5 INFRINGEMENT QUESTION?

6                   **MS. MAROULIS:** WELL, IT GOES BOTH TO DAMAGES AND  
7 INFRINGEMENT. THE DAMAGES PART IS THE EXTENT OF USE. BUT IF  
8 THE PRODUCT DOESN'T PRACTICE THE PATENT, THEN IT DOESN'T --  
9 THAT GOES TO THE INFRINGEMENT.

10                  **THE COURT:** HOW THE CARRIERS UTILIZE -- SO HE'S NOT  
11 RIGHT, THAT THERE'S THAT CAPABILITY WITHIN EACH OF THE PHONES  
12 REGARDLESS?

13                  **MS. MAROULIS:** YOUR HONOR, SO A NUMBER OF PATENTS AT  
14 ISSUE --

15                  **THE COURT:** YES.

16                  **MS. MAROULIS:** -- HAVE METHOD CLAIMS, RIGHT? SO  
17 MULTIPLE PATENTS THEY ACCUSE HAVE TO -- BROADLY SPEAKING, HAVE  
18 TO DO WITH THE MOVEMENT OF THE PHONE FROM THE LEGACY NETWORKS  
19 TO THE 4G LT NETWORKS.

20                  FOR THESE METHOD CLAIMS, THEY ARE GOING TO HAVE TO  
21 PROVE THAT A SPECIFIC PHONE IS CAPABLE FROM SWITCHING FROM ONE  
22 TO ANOTHER AND IN WHICH WAY THAT SPECIFIC PHONE BY NETWORK IS  
23 CAPABLE OF DOING THAT. SO THAT'S -- YOU'RE RIGHT, YOUR HONOR,  
24 IN AS FAR AS WE'RE STILL ADDUCING ALL THE DIFFERENT EVIDENCE,  
25 BUT THAT IS THE FRAMEWORK --

1                   **THE COURT:**   OKAY.

2                   **MS. MAROULIS:**   -- UPON WHICH THE DISCOVERY IS GOING  
3                   TO SHOW.   BECAUSE IT IS METHOD CLAIMS, AND THERE'S NOTHING THEY  
4                   CAN DO ABOUT THAT, AND IT'S NOT SPECIFIC TO ONE.   THERE IS THE  
5                   HANOVER PATENTS.   THERE'S ON SOMETHING CALLED (INDISCERNIBLE),  
6                   AND THEY ALL HAVE TO DO WITH THIS CONCEPT OF THE PHONE  
7                   MIGRATING FROM LEGACY NETWORK 2G/3G TO ANOTHER NETWORK AND  
8                   BACK.

9                   BUT A BROADER POINT, ALSO, IS THAT OUR CONCERN IS  
10                  THAT THE LONGER WE CONTINUE ON WITH DISCOVERY -- AND I THINK  
11                  WHAT WE WOULD LIKE TO DO IS TO LEARN MORE ABOUT DIFFERENT  
12                  THINGS BEFORE THEY MAKE THEIR SELECTION.   THE WHOLE POINT OF  
13                  DOING THE CASE NARROWING THE CASE WAS SO THAT WE HAVE LESS  
14                  DISCOVERY.

15                  AND WE CONVINCED JUDGE ORRICK THAT WE NEEDED TO HAVE  
16                  THIS NARROWING NOW SO THAT WE DON'T GO ALL THE WAY THROUGH  
17                  TRIAL WITH ALL THE PRODUCTS, ALL THE PATENTS AND ALL THE SALES  
18                  FIGURES AND SUCH, BECAUSE IT'S A LOT.

19                  **THE COURT:**   WELL, FROM MY PERSPECTIVE, THAT'S  
20                  SECONDARY.   WHAT'S PRIMARY IS GETTING IT NARROWED FOR SUMMARY  
21                  JUDGMENT AND FOR THEN TRIAL, BECAUSE -- JUST TO MAKE THE  
22                  DECISION PROCESS MANAGEABLE.   THE FACT THAT YOU'RE DOING CRAZY  
23                  DISCOVERY IN THE PATENT CASE, WELL, THAT'S OF CONCERN, BUT IT'S  
24                  A MATTER OF DEGREE, NOT KIND.

25                  SO I'M MUCH MORE CONCERNED WITH MAKING SURE I GET THE

1 NARROWING DONE SO THAT THE SUMMARY JUDGMENT IS BOTH SOMETHING  
2 THAT WE CAN ACTUALLY DO, NUMBER ONE; AND, NUMBER TWO, IT'S  
3 MEANINGFUL. THAT IS TO SAY YOU'LL GET SUMMARY JUDGMENT  
4 RULINGS -- IT'S THE ONE THAT WILL AFFECT PRODUCTS THAT AREN'T  
5 IN THE CASE. THE JURY VERDICT MAY OR MAY NOT. BUT THE SUMMARY  
6 JUDGMENT RULINGS WILL GIVE YOU RULINGS THAT MAY ACTUALLY IMPACT  
7 PRODUCTS THAT AREN'T IN THE CASE.

8 SO I WANT TO MAKE SURE THAT SUMMARY JUDGMENT RULING  
9 IS AS MEANINGFUL AS POSSIBLE. BUT WHY DON'T YOU RESPOND OR  
10 WHATEVER YOU WANT TO SAY (INDISCERNIBLE).

11 **MR. BETTINGER:** WE ALSO HAD TO NARROW DOWN THE CLAIMS  
12 IN ADDITION TO THE PRODUCTS.

13 **THE COURT:** YES, I UNDERSTAND.

14 **MR. BETTINGER:** SO WHERE IT IS NOW IS THERE'S  
15 BASICALLY A METHOD AND AN APPARATUS CLAIM FOR EACH OF THE 11  
16 ASSERTED PATENTS, AND I THINK BOTH SIDES BASICALLY FOLLOWED  
17 THAT SAME PROCESS.

18 SO THERE'S -- IN ADDITION TO THE PRODUCTS, YOU'RE  
19 HAVING THIS NARROWING OF CLAIMS TO -- EVENTUALLY YOU HAVE TO  
20 GET DOWN TO FIVE CLAIMS ON NO MORE THAN FIVE PATENTS. SO  
21 WHETHER -- THERE'S A LOT TO STILL BE DETERMINED AS TO WHAT TO  
22 DO, BUT UNTIL YOU HAVE THE EVIDENCE AND HAVE ANALYZED IT, IT'S  
23 NOT -- WE'RE NOT IN A POSITION TO TELL THE COURT, YOU KNOW,  
24 THAT WE CAN GET DOWN TO SUMMARY JUDGMENT KIND OF NARROWING.  
25 WHAT WE'VE PROPOSED IN EXHIBIT 1 IS A SUBSTANTIAL NARROWING OF

1 WHERE WE WERE.

2 **THE COURT:** (INDISCERNIBLE) UNDERSTANDING  
3 (INDISCERNIBLE) BUT --

4 **MR. BETTINGER:** I HAVE A COLOR COPY, IF YOU LIKE.

5 **THE COURT:** I'VE GOT IT HERE, BUT IT'S -- THIS  
6 APPEARS TO HAVE 38 PRODUCTS ON IT.

7 **MR. BETTINGER:** RIGHT. SO THAT WOULD HAVE BEEN UNDER  
8 THE OLD PROPOSAL. WHAT WE HAD SUBMITTED THE FIRST TIME ON  
9 UNDERSTANDING OF PRODUCTS, THAT WOULD HAVE BEEN THE PRODUCTS  
10 INVOLVED WHEN YOU BREAK IT DOWN BY THE BASEBAND CHIPS AND THE  
11 DIFFERENCE IN THEM. WHAT WE'VE NOW DONE IS SAID ONLY THOSE  
12 HIGHLIGHTED IN GREEN --

13 **THE COURT:** I SEE.

14 **MR. BETTINGER:** -- WHICH MAY IN YOUR BLACK-AND-WHITE  
15 COPY BE LIKE AN OFF GRAY, IT'S DOWN TO THOSE.

16 **THE COURT:** SO IT'S ONLY THE HIGHLIGHTED --

17 **MR. BETTINGER:** CORRECT. THE REASON FOR PUTTING THE  
18 OTHERS IN THERE IS THAT'S WHAT WOULD HAVE BEEN UNDER OUR OLD  
19 PROPOSAL TO INDICATE --

20 **THE COURT:** SO HOW MANY PRODUCTS IS THIS?

21 **MR. BETTINGER:** 22.

22 **THE COURT:** THIS IS --

23 **MR. BETTINGER:** 22. AND SO IF THERE'S AN AT&T OR  
24 VERIZON PHONE AND ONE USES A SAMSUNG --

25 **THE COURT:** (INDISCERNIBLE.)

1                   **MR. BETTINGER:** -- AND ONE USES ITS OWN CHIP, A  
2 QUALCOMM CHIP, THOSE ARE DIFFERENT PRODUCTS UNDER THIS  
3 PROPOSAL.

4                   WHERE WE WERE TRYING TO ACCOMMODATE COUNSEL'S  
5 REQUESTS, LIKE, YOU'RE GOING TO NEED DIFFERENT PROOF OR  
6 DIFFERENT SOURCE CODE. OKAY, THAT'S A FAIR COMMENT. SO WE  
7 WENT THROUGH AND THEN NARROWED DOWN BASED ON THE BASEBAND CHIP  
8 BECAUSE IN THIS CASE WHAT WE'RE TALKING ABOUT IS CALLED THE  
9 RAN, THE RADIO ACCESS NETWORK, BETWEEN THE DEVICE AND THE BASE  
10 STATION. AND THERE'S A BASEBAND PROCESSOR THAT IS -- ON ENDS  
11 IS KIND OF THE FIRST CHIP THAT DEALS WITH THIS.

12                   SO THAT'S WHERE THE FOCUS HAS BEEN FOR THE SOURCE  
13 CODE PRODUCTION AND WE'RE NOW, BOTH SIDES, ARE REVIEWING.

14                   **THE COURT:** AND YOUR POINT ON THIS, THE CARRIER  
15 ISSUE, IS THAT THERE MAY BE DISTINCTIONS WITHIN A QUALCOMM  
16 FAMILY OF CHIPS THAT ARE USED BY AT&T OR WHATEVER IT IS?

17                   **MS. MAROULIS:** THAT'S CORRECT, YOUR HONOR. WITHIN  
18 THE CHIPS THERE'S DIFFERENT VARIATIONS, AND THEY'RE DIFFERENT  
19 BY CARRIER. AND THE PLACE YOU WOULD SEE IT, IT'S EXHIBIT A  
20 ATTACHED TO THE DUCCA DECLARATION, WHICH IS DOCKET NUMBER  
21 200-12.

22                   THEY'RE BASED ON -- BASED ON NAMES, THERE'S SPECIFIC  
23 NUMBERS ASSOCIATED WITH THEM, AND THEY'RE THE BUILD I.D.S AND  
24 IT'S THE BUILD I.D.S THAT ACTUALLY SHOW THAT THERE'S A  
25 DIFFERENT SOURCE CODE IMPLICATED AS BETWEEN DIFFERENT CARRIERS

1 EVEN WHEN THEY BOTH HAVE THE SAME TYPE OF CHIP.

2 AND JUST TO CLARIFY OUR POSITION ON THE EXHIBIT THAT  
3 MR. BETTINGER WAS ADDRESSING IS THAT IS STILL A LIST OF PRODUCT  
4 LINES. TO US IT'S STILL A LIST OF PRODUCT FAMILIES, NOT  
5 PRODUCTS.

6 **THE COURT:** I'M NOT GOING TO GET CAUGHT UP IN  
7 (INDISCERNIBLE).

8 **MS. MAROULIS:** BUT JUDGE ORRICK DID SAY HE UNDERSTOOD  
9 HIS ORDER TO GO TO PRODUCTS AND NOT PRODUCT LINES.

10 **THE COURT:** JUDGE ORRICK'S NOT HERE. I'M GOING TO  
11 TAKE THIS FOR THE NEXT PERIOD OF TIME AND GET IT TO THE NEXT  
12 STAGE.

13 **MS. MAROULIS:** UNDERSTOOD.

14 **THE COURT:** AND I -- IT'S IF I HAVE A QUESTION, I'LL  
15 GO ASK HIM, BUT I'M NOT GOING TO WORRY TOO MUCH ABOUT  
16 (INDISCERNIBLE) YES.

17 **MR. BETTINGER:** IT'S NOT FAIR TO SAY THAT I CAN SAY  
18 THIS DEFINITIVELY, BUT ON THE PRELIMINARY VIEW OF THE SOURCE  
19 CODE FOLKS, THE FACT THAT ONE BUILD TO THE NEXT, THERE'S NOT  
20 BEEN A MATERIAL DIFFERENCE.

21 NOW, I CAN'T REPRESENT TO THE COURT THAT THAT'S  
22 UNIVERSALLY TRUE UNTIL WE GET FURTHER IN. BUT ON A PRELIMINARY  
23 BASIS, FROM ONE BUILD TO THE NEXT, THERE'S NO MATERIAL  
24 DIFFERENCES IN THE CODE FOR PURPOSES OF THE PATENTS AT ISSUE IN  
25 THIS CASE.

1                   **THE COURT:** SO WHAT DO YOU THINK, AND WHAT DOES YOUR  
2 BRAIN TRUST THINK ABOUT THE PROSPECTS FOR NARROWING BASED ON  
3 MONEY?

4                   **MR. PRITIKIN:** WE AGREE.

5                   **THE COURT:** YOU THINK YOU MIGHT BE ABLE TO NARROW IT  
6 TO A CARRIER OR TWO AND THEN CAPTURE ENOUGH OF THE MARKET THAT  
7 YOU'RE GOING TO BE BITING OFF A SIGNIFICANT CHUNK OF THE CASE?

8                   **MR. PRITIKIN:** I DO. THE HESITANCY WOULD BE BY  
9 CARRIER. IF ALL OF THEM HAVE THE SAME CHIP, THAT'S HARD TO SEE  
10 WHAT THE DISTINCTION WOULD BE BETWEEN THE CARRIERS, BUT AT THE  
11 END IT'S MONEY.

12                   (SIMULTANEOUS COLLOQUY.)

13                   **THE COURT:** EVENTUALLY, IF I HAVE TO, WE'LL DO A DEEP  
14 DIVE INTO THE INFRINGEMENT/NON-INFRINGEMENT ARGUMENT. IT HAS  
15 TO DO WITH THE DIFFERENCE BETWEEN CARRIERS, BUT IT JUST  
16 OCCURRED TO ME THAT YOU MIGHT NOT NEED TO HAVE THAT FIGHT IF  
17 YOU ARE NARROWING IT TO THE TWO PRINCIPAL CARRIERS. I DON'T  
18 KNOW.

19                   SO HERE'S MY IDEA, I'M THROWING IT OUT THERE FOR  
20 DISCUSSION.

21                   THE NEXT TIME YOU'RE SUPPOSED TO NARROW UNDER THE NEW  
22 SCHEDULE IS PROBABLY NOT FOR A WHILE.

23                   **MR. PRITIKIN:** MARCH 16TH.

24                   **THE COURT:** MARCH, OKAY. SO YOU HAVE LOTS OF TIME.  
25 I THOUGHT MAYBE THAT WITH RESPECT TO THE PLAINTIFFS NARROWING

1 OF ACCUSED PRODUCTS, WE MIGHT HAVE AN INTERIM DATE. SO THAT  
2 YOU TAKE A LOOK AT THE SOURCE CODE FOR THE VARIOUS CHIPS. YOU  
3 TAKE A LOOK AT THE MARKET INFORMATION FOR THE CARRIERS TO SEE  
4 WHETHER OR NOT YOU CAN NARROW THE CARRIERS IN ADDITION TO  
5 NARROWING THE CHIPS, CHIPSETS THAT ARE GOING TO BE USED. AND  
6 HAVE A FURTHER NARROWING, A PERIOD OF TIMEOUT -- YOU KNOW, AND  
7 YOU GUYS CAN TALK ABOUT IT ONCE YOU KNOW MORE ABOUT THE SOURCE  
8 CODE THAT GOES INTO THESE CHIPS, WHAT THE DIFFERENT BUILDS MEAN  
9 AND SEE WHETHER IT'S DONE. IT'S -- I DON'T KNOW.

10 ANY THOUGHTS ABOUT THAT, MS. MAROULIS?

11 **MS. MAROULIS:** YOUR HONOR, WE SHOULD MEET AND CONFER  
12 WITH HUAWEI AFTER THEY'VE HAD A CHANCE TO EXPLORE THE FINANCIAL  
13 DATA THAT WE PRODUCED.

14 **THE COURT:** RIGHT.

15 **MR. BETTINGER:** AND WE'LL HAVE A CHANCE TO DO THE  
16 SOURCE CODE DEPOSITIONS, SEEKS TO MAKE SENSE.

17 **THE COURT:** YOU'LL GO THROUGH THE SOURCE CODES  
18 BECAUSE YOU'LL KNOW MORE ABOUT --

19 **MR. BETTINGER:** YEAH.

20 **THE COURT:** -- THAT ONCE YOU GO THROUGH THE SOURCE  
21 CODE AS TO WHETHER YOU'RE RIGHT THAT IT MATTERS WHICH VERSION  
22 OF THE QUALCOMM CHIP IS BEING USED, WHICH BUILD IS BEING USED,  
23 ET CETERA, ET CETERA.

24 BUT, IN ANY EVENT, SO -- LET ME JUST LOOK BACK.

25 SO THE SCHEDULE IS IN MARCH YOU'RE REDUCING IT TO,

1 UNDER THE NEW SCHEDULE, TO 18 PRODUCTS. YOU'RE NOW AT 22.

2 (INDISCERNIBLE) WHAT THAT MEANS, BUT WE'RE NOW AT 22.

3 SO WHEN DO YOU THINK YOU'LL BE IN A POSITION TO DO A  
4 FURTHER NARROWING TO ANSWER SOME OF THE CRITICISM THAT  
5 MS. MAROULIS HAS RAISED?

6 **MR. BETTINGER:** BASED ON THE DISCOVERY, I WOULD THINK  
7 EARLY TO MID JANUARY.

8 **MS. MAROULIS:** YOUR HONOR, WE APPRECIATE THE FACT  
9 THAT THE MOST IMPORTANT ASPECT OF THIS IS FOR THE COURT, BUT IT  
10 IS TAKING THINGS MUCH FURTHER THAN WOULD BE NECESSARY GIVEN THE  
11 CASE HAS BEEN PENDING FOR OVER A YEAR.

12 **THE COURT:** DO YOU WANT TO SAY ANYTHING ELSE?

13 **MS. MAROULIS:** MR. VERHOEVEN REMINDS ME THAT THEIR  
14 SOFTWARE EXPERTS AND THE SOURCE CODE FOLKS HAVE BEEN LOOKING AT  
15 OUR CODE FOR QUITE SOME TIME, SO THEY SHOULD BE ABLE TO COME UP  
16 WITH THE NARROWING SOONER.

17 **THE COURT:** SO WHAT -- OKAY. WELL, SO -- AND WHAT  
18 HAPPENS IF THEY DON'T? I MEAN, WHY ARE YOU SO CONCERNED ABOUT  
19 THE DIFFERENCE BETWEEN DECEMBER AND JANUARY?

20 **MS. MAROULIS:** YOUR HONOR, WE'RE JUST TRYING TO  
21 NARROW THE CASE SO THAT THERE'S FEWER DEPOSITIONS, FEWER  
22 DISCOVERY ISSUES, FUTURE DISCOVERY FIGHTS.

23 **THE COURT:** THEY NARROW IT TO JANUARY INSTEAD OF  
24 DECEMBER OR DECEMBER INSTEAD OF JANUARY, WHAT'S NOT GOING TO  
25 HAPPEN AND WHAT'S GOING TO HAPPEN?

1                   **MS. MAROULIS:** WE ARE GOING THROUGH NUMBER OF  
2 DEPOSITIONS, YOUR HONOR.

3                   **THE COURT:** WILL THEY NOT HAPPEN?

4                   **MS. MAROULIS:** THAT, WE DON'T KNOW. I CANNOT  
5 REPRESENT TO YOU RIGHT NOW HOW MANY DEPOSITIONS WILL GO OFF  
6 CALENDAR, BUT --

7                   **THE COURT:** OR ANY.

8                   **MS. MAROULIS:** -- EVERY DAY WE SPEND --

9                   **THE COURT:** WILL ANY GO OFF CALENDAR?

10                  **MR. PRITIKIN:** NO, BECAUSE THIS WOULD ONLY BE A  
11 DAMAGE ISSUE.

12                  **THE COURT:** WHAT DO YOU MEAN IT WOULD ONLY BE A  
13 DAMAGE ISSUE?

14                  **MR. PRITIKIN:** WELL, WE'RE GOING TO HAVE THE PROOF  
15 ALREADY ON THE INFRINGEMENT FROM THE CODE.

16                  **THE COURT:** YEAH.

17                  **MR. PRITIKIN:** WE'RE ALREADY GOING TO BE DOING THAT.  
18 SO THE ONLY THING THIS NARROWS -- ALL THAT DISCOVERY IS GOING  
19 TO HAVE TO TAKE PLACE. THIS WOULD POTENTIALLY NARROW DAMAGES.

20                  **THE COURT:** I SEE.

21                  **MR. PRITIKIN:** WHICH I THINK IS THE WHOLE GOAL FOR  
22 WHY -- WE WEREN'T INVOLVED IN THE APPLE-SAMSUNG CASE. MY  
23 UNDERSTANDING IS THIS DERIVES OUT OF THAT.

24                  **THE COURT:** WELL, WE'RE NOT GOING TO TALK ABOUT --

25                  **MR. PRITIKIN:** IN THE END --

1                   **THE COURT:** -- DIFFERENT PRODUCTS, DIFFERENT PATENTS.  
2                   THE OVERARCHING THEME IS YOU CAN NARROW THE NUMBER OF PRODUCTS.  
3                   YES, OKAY. I GET IT. SO I'M NOT WORRIED ABOUT WHY WE DID IT  
4                   IN A PARTICULAR WAY WHEN IT WAS SWIPE LEFT THE PATENTS.

5                   **MS. MAROULIS:** I COULD RECITE CHAPTER AND VERSE, BUT  
6                   I'M SURE YOUR HONOR DOESN'T WANT THAT, SO --

7                   **THE COURT:** NO, NO, NO. IT DOESN'T HELP BECAUSE IT  
8                   IS PARTICULAR TO THE PATENTS INVOLVED IN THAT CASE AND THE KIND  
9                   OF NARROWING.

10                  WELL, TODAY IS 27TH OF OCTOBER. SO LET'S USE THE OLD  
11                  REDUCTION DATE OF DECEMBER 15TH. AND WHAT I WANT YOU TO DO IS  
12                  TO SEE IF YOU CAN REDUCE IT FURTHER. YOU'RE NOT GOING DOWN TO  
13                  18 PRODUCTS YET, BUT -- SO THAT THE DISTINCTION THAT WE'RE  
14                  TALKING ABOUT HERE BETWEEN PRODUCTS AND FAMILIES OF PRODUCTS  
15                  CAN BE REDUCED OR ELIMINATED. SO THAT IF YOU STICK WITH, FOR  
16                  EXAMPLE, VERIZON AND AT&T AND YOU HAVE THE CHIPS THAT THEY USE  
17                  AND YOU DETERMINE THAT THOSE CHIPS ALL USE MATERIALLY IDENTICAL  
18                  SOURCE CODE, THEN THE DISTINCTION BETWEEN FAMILIES FALLS AWAY,  
19                  FAMILIES OF PRODUCTS FALLS AWAY, BUT THIS WOULD BE THE GOAL.

20                  **UNIDENTIFIED SPEAKER:** OKAY.

21                  **THE COURT:** BECAUSE, OTHERWISE, I'LL JUST MAKE SOME  
22                  ARBITRARY RULING, AND THAT SEEMS LESS USEFUL THAN YOU GUYS  
23                  ACTUALLY WORKING OUT WHAT WILL ACTUALLY WORK.

24                  THE -- I WANT YOU ALL TO HAVE MET AND CONFERRED AND  
25                  TALKED ABOUT THIS NO LATER THAN DECEMBER 1ST. SO THAT YOU EACH

1 KNOW WHAT'S GOING ON AND YOU HAVE INPUT INTO WHAT YOU'RE DOING  
2 AND MAYBE YOU CAN MAKE SOME RESOLUTION.

3 SO LET ME JUST THINK THROUGH HOW THIS GOES. SO YOU  
4 MEET AND CONFER BY THE 1ST. YOUR AMENDED PRODUCT LIST IS DUE  
5 ON THE 15TH. WE ARE -- IF THAT DOESN'T HAPPEN, WE'RE GOING TO  
6 HAVE TO FIGURE OUT SOME OTHER WAY BY MAKING IT AN ARBITRARY  
7 RULING.

8 **UNIDENTIFIED SPEAKER:** OKAY.

9 **THE COURT:** I'M USING MY DISCRETION NOW TO -- THAT'S  
10 WHAT THEY TEACH US IN BABY JUDGE SCHOOL, HOW TO USE YOUR  
11 DISCRETION.

12 AND I DON'T WANT TO GO THROUGH THE NEXT STAGE. THE  
13 NEXT STAGE IS GOING TO BE A DEEP DIVE WHERE MS. MAROULIS GETS  
14 OUT HER COLORED MARKER AND BOARD AND EXPLAINS TO ME WHY THIS  
15 MAKES A DIFFERENCE FOR THE NON-INFRINGEMENT CONTENTIONS,  
16 (INDISCERNIBLE) USING THIS CHIP AND THAT CHIP. WHILE THAT  
17 WOULD BE A LOT OF FUN, IT'S PROBABLY -- IT'S PROBABLY NOT WORTH  
18 THE MONEY TO PUT THAT KIND OF PRESENTATION TOGETHER FOR THIS  
19 PURPOSE. BUT LET'S SEE WHERE WE CAN GO WITH THAT ONE.

20 SO WE'LL MEET AGAIN THE BEGINNING OF JANUARY.

21 **THE CLERK:** DID YOU SAY THE BEGINNING OF JUNE?

22 **THE COURT:** JANUARY, BEGINNING OF JANUARY.

23 **THE CLERK:** (INDISCERNIBLE.)

24 **MS. MAROULIS:** YOUR HONOR, IF WE CANNOT DO THE 5TH,  
25 THAT WOULD BE BEST BECAUSE SOME OF OUR TEAM MEMBERS MIGHT BE

1 OUT THAT WEEK.

2 **THE COURT:** 12TH MAKES MORE SENSE.

3 **MS. MAROULIS:** THANK YOU.

4 **THE COURT:** SO LET'S DO IT ON THE 12TH AT  
5 2:00 O'CLOCK, GIVE ME AN UPDATED STATEMENT AT LEAST A WEEK  
6 AHEAD OF TIME, PLEASE.

7 **MS. MAROULIS:** YES.

8 **MR. BETTINGER:** YES.

9 **THE COURT:** AND I DON'T KNOW. DOES THIS SEEM LIKE A  
10 PRACTICAL WAY OF DEALING WITH THIS? DOES IT SEEM LIKE IT MIGHT  
11 HAVE SOME CHANCE OF SUCCESS?

12 I'M REALLY ASKING YOU. HE THINKS IT DOES.

13 **MS. MAROULIS:** YOUR HONOR, WE ARE WILLING TO ENGAGE  
14 IN WHATEVER PROCESS TO GET THE CASE NARROWED AND TRIAL READY.  
15 SO WE'RE HOPING THAT WE GAVE THE COURT AND OTHERS AND HUAWEI  
16 ENOUGH AMMUNITION, AND WE THOUGHT THAT AFTER SITTING DOWN AFTER  
17 THE LAST CONFERENCE WAS PRODUCTIVE, SO I WAS HOPING THAT TODAY  
18 WE WOULD REACH THE NARROWING. BUT IF THIS IS ANOTHER STEP THAT  
19 WE SHOULD TAKE AS A GROUP, WE'LL BE HAPPY TO PARTICIPATE AND  
20 TRY TO GET IT DONE.

21 **MR. BETTINGER:** THANK YOU, COUNSEL.

22 **THE COURT:** THAT'S AN ELEGANT WAY OF NOT ANSWERING A  
23 QUESTION. I LIKE THAT A LOT. OKAY.

24 ANYTHING ELSE WE SHOULD DISCUSS?

25 **MS. MAROULIS:** THAT'S IT FOR THE PARTIES, YOUR HONOR.

1                   **THE COURT:** ALSO, BY THE WAY, I DON'T LIKE DISCOVERY  
2 FIGHTS ANY MORE THAN JUDGE ORRICK DOES. SO DON'T DO IT.

3                   **MS. MAROULIS:** YOUR HONOR, THE PARTIES HAVE BEEN  
4 WORKING PRETTY WELL.

5                   **THE COURT:** NO, NO. YOU'VE BEEN WONDERFUL. THAT'S  
6 GREAT. THAT'S GREAT.

7                   **UNIDENTIFIED SPEAKER:** YES. WERE YOU GOING TO LET US  
8 KNOW THE PRETRIAL AND THE TRIAL DATES, YOUR HONOR, OR WILL WE  
9 JUST GET AN ORDER ON THAT?

10                  **THE COURT:** OH, YES, HOLD ON A SECOND. I'M SORRY.  
11 BEAR WITH ME A SECOND. I'LL TRY TO FIND (INDISCERNIBLE).

12                  PRETRIAL CONFERENCE WILL BE NOVEMBER 5TH. THE  
13 DISPOSITIVE MOTIONS WILL BE HEARD ON AUGUST 8TH, BOTH NEXT  
14 YEAR. OTHERWISE, THE DATES ARE AS IS.

15                  **THE CLERK:** (INDISCERNIBLE.)

16                  **THE COURT:** IT'S ALL IN HERE.

17                  **UNIDENTIFIED SPEAKER:** SO DECEMBER 3RD TRIAL DATE?

18                  **THE COURT:** YES, THAT STAYS.

19                  **UNIDENTIFIED SPEAKER:** ALL RIGHT. VERY GOOD.

20                  **THE COURT:** OKAY.

21                  **UNIDENTIFIED SPEAKER:** I JUST WANT TO NOTE FOR THE  
22 RECORD, I DO HAVE A TRIAL ON THE PRETRIAL CONFERENCE DATE, BUT  
23 IT'S SO FAR IN THE FUTURE, I DON'T THINK WE SHOULD ADJUST WHAT  
24 WE'RE DOING.

25                  **THE COURT:** YES, BOTH YOURS AND JUDGE ORRICK'S

1 SCHEDULE.

2 ON THE OTHER HAND, YOU KNOW, THERE ARE SOME GREAT  
3 MAGISTRATE JUDGES (INDISCERNIBLE) THAT YOU COULD CONSENT TO WHO  
4 KNOW A TREMENDOUS AMOUNT AND CAN DO A DEEP DIVE INTO THIS CASE.  
5 I COULD ASK ONE OF THEM TO STAND IN IF YOU DECIDE.

6 OKAY. THANK YOU ALL.

7 (PROCEEDINGS ADJOURNED AT 1:47 P.M.)

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**CERTIFICATE OF TRANSCRIBER**  
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I CERTIFY THAT THE FOREGOING IS A TRUE AND CORRECT  
TRANSCRIPT, TO THE BEST OF MY ABILITY, OF THE ABOVE PAGES OF  
THE OFFICIAL ELECTRONIC SOUND RECORDING PROVIDED TO ME BY THE  
U.S. DISTRICT COURT, NORTHERN DISTRICT OF CALIFORNIA, OF THE  
PROCEEDINGS TAKEN ON THE DATE AND TIME PREVIOUSLY STATED IN THE  
ABOVE MATTER.

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I FURTHER CERTIFY THAT I AM NEITHER COUNSEL FOR,  
RELATED TO, NOR EMPLOYED BY ANY OF THE PARTIES TO THE ACTION IN  
WHICH THIS HEARING WAS TAKEN; AND, FURTHER, THAT I AM NOT  
FINANCIALLY NOR OTHERWISE INTERESTED IN THE OUTCOME OF THE  
ACTION.

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JOAN MARIE COLUMBINI

NOVEMBER 6, 2017